

# **Exhibit 4**

U.S. Department of Homeland Security  
800 North Capitol Street, NW, Suite 585  
Washington, DC 20536-5009



U.S. Immigration  
and Customs  
Enforcement

January 27, 2012

MICHAEL WISHNIE  
JEROME N. FRANK LEGAL SERVICES ORGANIZATION  
YALE LAW SCHOOL  
P.O. BOX 209090  
NEW HAVEN, CT 06520-9090

Re: **FOIA Request 2012FOIA02544**

Dear Mr. Wishnie:

This acknowledges receipt of your Freedom of Information Act/Privacy Act (FOIA/PA) request to U.S. Immigration and Customs Enforcement (ICE), dated November 29, 2011. Your request was received in this office on November 29, 2011. In your FOIA request, you seek all records, created from January 1, 1986 to the present, relating to the Criminal Alien Program (CAP), and the INS and ICE programs out of which CAP developed.

ICE FOIA has determined that you have not submitted a perfected request. Your blanket request for all CAP records does not reasonably describe the records you are seeking. CAP is present within all 24 field offices and screens all Federal and State facilities. An unfocused search for all records of communication with those facilities, or personnel at those facilities, would not only be enormously time consuming, it would also likely produce records that would not have any value to the public with respect to explaining the operation of the agency. This request, in its current form, would likely disrupt agency operations due to the extraordinary amount of labor required to retrieve the requested information, if in fact the information could even be retrieved. CAP and its predecessors, Institutional Removal Program, Institutional Hearing Program and Administrative Criminal Alien Program (ACAP) have been part of the legacy Immigration & Naturalization Service since prior to 1986. To provide detailed information on all aliens encountered in the history of the current mission of the Criminal Alien Program is unrealistic as it crosses multiple agencies, administrations and departments.

This request seeks decades worth of information and potentially implicates millions of pages of records. This request would not only significantly impact ICE, but it would effectively cripple certain ICE offices' ability to maintain current operations.

Your request also seeks all records regarding individual aliens encountered by ICE in connection with CAP activities. Before we can release personal information relating to those individuals, we must verify each individual alien's identity and receive notice that they consent to the release of their personal information to a third party. DHS regulations, 6 CFR Part 5 § 5.21(d), require

verification of their identity, including full name, current address and date and place of birth. In addition, each request must be made in writing, must contain the individual alien's signature, and should either be notarized or contain a statement made under penalty of perjury as permitted by 28 U.S.C. 1746. <sup>1</sup> Because you have not provided this documentation, your request is not a proper FOIA/PA request, and we are unable to initiate searching for responsive records.

If you could identify with specificity the CAP-related topics in which you would like to receive records of communication, we would be able to conduct a more focused search that is more likely to produce the records you would like to receive in an expeditious manner. We would encourage you to contact this office to discuss ways to further refine your FOIA request.

This is not a denial of your request. Upon receipt of a perfected request, you will be advised as to the status of your request.

If you have any questions or would like to discuss this matter, please feel free to contact this office at (202) 732-0600 or (866) 633-1182 refer to case number **2012FOIA02544**.

Sincerely,

A handwritten signature in black ink, appearing to read 'MPK', followed by the word 'For' in a smaller, handwritten font.

Catrina M. Pavlik-Keenan  
FOIA Officer

---

<sup>1</sup> For your convenience, I have attached an affirmation/declaration form that can be used to satisfy the requirements of a perfected FOIA/PA request, as stated in the second paragraph of this letter. You must complete a copy of this form for each individual alien and return it to our office before we can initiate a search for records relating to those individuals. If we do not receive the completed form within 30 business days from the date of this letter, we will assume that you no longer require the information requested.

U.S. Department of Homeland Security  
Washington, D.C. 20536



U.S. Immigration  
and Customs  
Enforcement

**AFFIRMATION/DECLARATION**

This is to affirm that

I, \_\_\_\_\_  
(PRINT FULL NAME)

request access to records maintained by the Immigration and Customs Enforcement which  
pertain to me. My present address is:

my date of birth is: \_\_\_\_\_, and

my place of birth was: \_\_\_\_\_.

I understand that any knowingly or willfully seeking or obtaining access to records about another  
person under false pretenses is punishable by a fine of up to \$5,000. I also understand that any  
applicable fees must be paid by me.

I hereby authorize \_\_\_\_\_ access to my records.  
(PRINT FULL NAME)

I request that any located and disclosable records be forwarded to the following individual:

\_\_\_\_\_ at the following address:  
(PRINT FULL NAME)

I hereby declare or certify under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURE OF AFFIRMANT/DECLARANT).

PLEASE RETURN TO: U.S. Department of Homeland Security  
Immigration and Customs Enforcement  
500 12<sup>th</sup> Street, SW, Stop 5009, Washington, DC 20536-5009  
Via Facsimile: 203-732-0660